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COLLECTION

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TO: State and Municipal Public Safety Appointing Authorities
FROM: Eugene H. Rooney, Jr., Acting Personnel Administrator
RE: Sequence of Recalls and Appointments
DATE: August 22, 1991

The Department of Personnel Administration has determined there is a need to clarify the means by which employees who have been separated from employment pursuant to MGL Chapter 31, Section 39 because of lack of work, lack of money or abolition of positions may be recalled to work in either their own or another department. The order of appointments made subsequent to recalls is also being clarified.

ORDER OF RECALL

The sequence of recall is as follows:

- 1) Reinstatement to one's former department under the provisions of MGL Chapter 31, Section 39.
- 2) Reemployment under the provisions of MGL Chapter 31, Section 40.

Reinstatement

Under the provisions of MGL Chapter 31, Section 39, permanent employees who have been separated from permanent civil service positions because of lack of work, lack of money or abolition of positions have the right to be reinstated in the same unit and in the same or similar positions to those formerly held if positions become available at any time within five years from the effective date of their separation. Such reinstatements must be effected before appointments are made to the title through any other means, including issuance of a reemployment list or certification from an open competitive eligible list.

Reemployment

Under the provisions of MGL Chapter 31, Section 40, permanent employees who have been separated from permanent civil service

913/93

positions because of lack of work, lack of money or abolition of positions have reemployment rights for a period of two years. The name of such employees will be placed by the Personnel Administrator on a reemployment list for the title previously held by those employees.

ORDER OF APPOINTMENTS

Subsequent to exhausting recall procedures through reinstatements under Section 39 and use of the reemployment list pursuant to Section 40, the order of appointments is as follows:

- 3) Reinstatement to one's former or other departmental units under Section 46.
- 4) Appointments from the intermittent or reserve force (where applicable).
- 5) Appointments from eligible lists.

MGL Chapter 31, Section 46 Reinstatements

Under the provisions of MGL Chapter 31, Section 46, permanent employees who become separated from their positions for reasons other than lack of work, lack of money or abolition of position (e.g. resignation) may be considered for reinstatement in either their former or other departmental units. This consideration is at the option of the appointing authority and requires the approval of the Administrator based on whether the reinstatement would be in the public interest. Section 46 does not create any right to recall and it is inapplicable to recalls of persons separated pursuant to Section 39. No person shall be recalled under Section 46 unless the appointing authority has exhausted recall procedures under Sections 39 and 40.

MGL Chapter 31, Section 60; Intermittent or Reserve Police or Fire Forces

Where applicable, original appointments to the lowest title in a regular police or fire force shall be made from among the permanent members of an intermittent or reserve force. Seniority for these original appointments is computed from the first date of full-time employment as a permanent employee on the regular force in conformity with the provisions of MGL Chapter 31, Section 33. No person shall be appointed under Section 60 unless the appointing authority has exhausted recall procedures under Sections 39 and 40.

MGL Chapter 31, Sections 25, 26, 27, 59

Appointments from eligible lists shall be made in accordance with the provisions of Chapter 31, Sections 25, 26, 27 and 59 as applicable.

